

In the United States Court of Federal Claims

No. 08-834 C

(September 13, 2010)

* * * * *

NAVAJO HOUSING *
AUTHORITY, *

Plaintiff, *

v. *

THE UNITED STATES, *

Defendant. *

* * * * *

ORDER

On July 19, 2010, defendant filed a Notice of Indirectly Related Cases, pursuant to Rule 40.2(b) of the Rules of the Court of Federal Claims (RCFC) (Def. Notice). Therein, defendant reports that *Yakama Nation Housing Authority v. United States*, Fed. Cl. No. 08-839C (Sr. Judge Loren A. Smith) and *Lummi Tribe of the Lummi Reservation, Washington, et al., v. United States*, Fed. Cl. No. 08-848C (Sr. Judge John P. Wiese) are indirectly related to the subject matter. Defendant reports that these cases involve common issues of fact and law because they arise from the enactment of NAHASDA, the issuance of HUD regulation 24 C.F.R. § 1000.318, and HUD's efforts to recover or withhold money subsequent to the audit conducted by its inspector general in 2001. (Def. Not. at 10). Defendant reports that it intends to file a motion to dismiss in each of these cases. Therefore before filing its dispositive motion, the government states that it seeks permission from the court to have these cases consolidated to aid in the efficient administration of justice pursuant to RCFC 40.2(b)(2).

Pursuant to RCFC 40.2(b)(3)(D) and the court's order of July 20, 2010, plaintiff filed its response to the defendant's notice of indirectly related cases. Plaintiff's response states that plaintiff agrees that these cases are indirectly related however, plaintiff contends that there are numerous factual distinctions, opposes

the consolidation of these cases and intends to file an amended complaint in the subject matter. As set forth under RCFC 40.2(b)(4), the undersigned contacted the assigned judges in *Yakama Nation Housing Authority v. United States*, Fed. Cl. No. 08-839C (Sr. Judge Loren A. Smith) and *Lummi Tribe of the Lummi Reservation, Washington, et al., v. United States*, Fed. Cl. No. 08-848C (Sr. Judge John P. Wiese) to determine if defendant's notice of indirectly cases warranted any action by the court.

Accordingly, it is hereby **ORDERED** that:

- (1) It is the court's determination that defendant's notice of indirectly cases does not support consolidation of these cases. However, in the interests of efficiency and conservation of resources, the court agrees to consolidate management of these three cases during any necessary discovery stage(s); and
- (2) The parties are directed to **CONFER** and **FILE** a Joint Status Report, on or before **September 30, 2010**, proposing a schedule for proceedings in the subject matter.

s/Lynn J. Bush

LYNN J. BUSH

Judge

cc:

Sr. Judge Loren A. Smith

Sr. Judge John P. Wiese